

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CARNEGIE INSTITUTION OF
WASHINGTON and M7D CORPORATION,

Plaintiffs,

v.

FENIX DIAMONDS LLC,

Defendant.

Civil Action No. 1:20-cv-00200-JSR

**CONFIDENTIAL-
FILED UNDER SEAL**

**DECLARATION OF NICOLE E. KOPINSKI IN SUPPORT OF DEFENDANTS
FENIX DIAMONDS LLC'S RULE 56.1 STATEMENT OF UNCONTESTED
MATERIAL FACTS IN SUPPORT OF ITS MOTION FOR
SUMMARY JUDGMENT OF NON-INFRINGEMENT**

I, Nicole E. Kopinski, declare the following:

I am an attorney admitted *pro hac vice* to practice before this Court and a Partner with the law firm of Leydig, Voit & Mayer, Ltd., counsel for Fenix Diamonds LLC. I submit this declaration to place in the record and before the Court true and correct copies of the exhibits cited in Defendant Fenix Diamonds LLC's Rule 56.1 Statement of Uncontested Material Facts in Support of Its Motion for Summary Judgment of Non-Infringement.

1. Attached as Exhibit 1 is a true and correct copy Second Amended Plaintiffs' Local Rule 6 Disclosure to Defendant Fenix Diamonds LLC.
2. Attached as Exhibit 2 is a true and correct copy of U.S. Patent No. 6,858,078.
3. Attached as Exhibit 3 is a true and correct copy of RE41,189.
4. Attached as Exhibit 4 is a true and correct copy of excerpts of the Expert Report of Michael Capano, Ph.D. Regarding Infringement of U.S. Patent No. 6,858,078.

5. Attached as Exhibit 5 is a true and correct copy of the Joint Affidavit of Bakulbhai Limbasiya and Chirag Limbasiya bates labeled NV958-977.
6. Attached as Exhibit 6 is a true and correct copy of excerpts of the Expert Report of J. Michael Pinneo, Ph.D. Regarding Non-Infringement of U.S. Patent No. 6,858,078.
7. Attached as Exhibit 7 is a true and correct copy of excerpts of the Expert Report of Karen K. Gleason, Ph. D. Regarding Validity of U.S. Patent Nos. 6,858,078 and RE41,189.
8. Attached as Exhibit 8 is a true and correct copy of the article entitled, "Very High Growth Rate Chemical Vapor Deposition of Single-Crystal Diamond," Yan, et al., 20 PNAS 12523–25.
9. Attached as Exhibit 9 is a true and correct copy of excerpts from the deposition of Russell Hemley taken September 1, 2020 in Civil Action No. 1:20-cv-00200.
10. Attached as Exhibit 10 is a true and correct copy of excerpts of the Expert Report of John C. Jarosz.
11. Attached as Exhibit 11 is a true and correct copy of excerpts from the deposition of Amit Mehta taken July 22, 2020 in Civil Action No. 1:20-cv-00200.
12. Attached as Exhibit 12 is a true and correct copy of excerpts of the Rebuttal Expert Report of Dr. John Martens Regarding U.S. Patent No. 6,585,078.
13. Attached as Exhibit 13 is a true and correct copy of an Email from K. Patariu to M. Snow, et al. dated July 23, 2020.
14. Attached as Exhibit 14 is a true and correct copy of excerpts from the deposition of Yogesh Vohra taken July 31, 2020 in Civil Action No. 1:20-cv-00200.
15. Attached as Exhibit 15 is a true and correct copy of excerpts from the deposition of Yarden Tsach taken August 27, 2020 in Civil Action No. 1:20-cv-00200.

Dated: October 13, 2020

/s/ Nicole E. Kopinski

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